



An
Bord
Pleanála

Inspector's Report PL06S.247472.

Development

Demolition of car service area,
demolition of parts store room,
demolition of two storey office annex,
construction of new car showroom
entrance porch, modifications to the
facades including installing windows
and roller shutter doors, installation of
gates to the north and south of the
existing showroom and service areas,
installation of freestanding totem sign.

Location

Rathfarnham Ford, Whitechurch
Road, Rathfarnham.

Planning Authority

South Dublin County Council.

Planning Authority Reg. Ref.

SD16A/0007

Applicant(s)

Rathfarnham Ford

Type of Application

Permission

Planning Authority Decision

Grant permission subject to conditions

Type of Appeal

1. First party against conditions
2. Third Party against grant

Appellant(s)	1. Rathfarnham Ford 2. Glendoher & District Residents Association
Observer(s)	None
Date of Site Inspection	1 st March 2017.
Inspector	Ciara Kellett

1.0 Site Location and Description

- 1.1. The site is located on the west side of Whitechurch Road in Rathfarnham, Dublin 16. It is located c.500m north of St. Enda's Park and between the junction of Whitechurch Road with St. Enda's Drive and Grange Park. To the south of the site lies a disused petrol station. This is not within the ownership of the applicants.
- 1.2. The general area of Whitechurch Road is a well-established and settled residential area. Directly opposite the site on the eastern side of Whitechurch Road lie a number of terraced houses, called Whitechurch Pines. Other housing areas surround the site to the north and south, including Fonthill, Willbrook and Glendoher estates.
- 1.3. The site itself is stated as being a long established car show room and service garage. There is one entrance to the site from Whitechurch Road. There are two main buildings running east to west, with parking/storage of cars generally to the front (east of the site) and to the north of the site. The northern building currently comprises a showroom, with two service areas to the west of the showroom and another service area as an annex to the north of the building, as well as a small two storey office annex to the south-west of the building. The building to the south of the site is not the subject of any proposed alterations.
- 1.4. The Whitechurch stream runs inside the boundary, parallel to Whitechurch road. It is culverted with an opening to the stream providing visibility in the centre of the parking area to the front/east of the site.
- 1.5. Appendix A includes maps and photos.

2.0 Proposed Development

- 2.1. A substantial site description was included in the public notices. The works proposed relate to the main building on the northern half of the site, and in essence are to:
 - Demolish the service area to the north-west to create an area for parking and for washing of vehicles.
 - Demolish a parts store room and toilet area also located on the north façade of the building.

- Construct a new entrance (22.95sq.m) to the showroom in the form of a glazed porch with signage above on the north façade.
- Demolish office annex in the south-west corner and replace it with a plant room for the housing of a compressor.
- Install new windows and roller shutter doors on both the north and south elevations of the building.
- Extension of external cladding to match existing.
- New gates/screen walls to restrict access to internal yard areas.
- New freestanding totem sign to front of premises.
- Internal modifications including relocating toilets and staircases.

Accompanying the request for permission was documentation including a cover letter with rationale for the proposed changes, a Drainage Report and copies of pre-planning documentation.

Further information was submitted to the Planning Authority which included a landscaping plan, land ownership details, an Appropriate Assessment Screening Report and petrol interceptor details.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission subject to 12 conditions which included a number of conditions being appealed by the applicant.

Condition no.2 states:

- (a) The 4 metre wide strip, as outlined as a green dotted line in Drain RF/15/01 AI R2, dated 31st August 2016 shall be used in its entirety for the provision of a planted boundary.*
- (b) The existing car parking spaces, located along the eastern boundary, shall be relocated further to the west by the maximum space necessary to allow a 4 metre wide planted strip to be provided.*

Reason: *In the interest of protecting and/or improving residential amenity, supporting the County's Green Infrastructure and in the interests of proper planning and sustainable development.*

Condition no.3 states:

The requirements of Inland Fisheries Ireland should be ascertained prior to the commencement of the development, with particular regards to the location of the relocated car park spaces away from 4m wide planting strip along the eastern boundary.

Reason: *In the interests of protecting an existing water course and in the interests of proper planning and sustainable development.*

Condition no.4 states:

No development shall take place under this permission until the applicant, developer or owner has:

- (a) First consulted with the Parks and Landscape services section within 6 weeks of this permission to agree the specific landscaping requirements of the 4 metre wide planting strip, which shall include appropriate street trees planting for Whitechurch road.*
- (b) The existing concrete plinth, which is in place along the eastern boundary, shall be removed (replacement fences shall be supported by posts only).*
- (c) Agreed all planting details with the Parks and Landscape Services Section.*

Reason: *In the interest of protecting and/or improving residential amenity, in the interests of providing enough room for trees to grow and the proper planning and sustainable development of the area.*

Condition no.6 states:

The proposed 6 metre high freestanding signage located along the eastern boundary shall be omitted.

Reason: *In the interests of visual and residential amenity and the proper planning and sustainable development of the area.*

Condition no.7 states:

The applicant shall submit a parking layout for the written approval of the Planning Authority indicating clearly which parking is:

- (a) For cars waiting service,*
- (b) Stock, and*
- (c) For customers.*

Reason: *In the interests of clarity and the proper planning and sustainable development of the area.*

Condition no.12 states:

The developer shall pay to the planning authority a financial contribution of €78,766.50 (seventy eight thousand, seven hundred and sixty six euro, fifty cents), in respect of public infrastructure and facilities benefitting development within the area of the planning authority, that is provided, or intended to be provided by or on behalf of the authority, in accordance with the terms of the Development Contribution Scheme 2016 – 2020, made under Section 48 of the Planning and Development Act 2000 – 2011 (as amended). The contribution shall be paid prior to commencement of development, or in such phased payments as the planning authority may facilitate. Contributions shall be payable at the rate pertaining to the year in which implementation of the planning permission is commenced as outlined in the South Dublin County Council Development Contribution Scheme 2016 – 2020.

Reason: *The provision of such facilities will facilitate the proposed development. It is considered reasonable that the payment of a contribution be required, in respect of public infrastructure and facilities benefitting development in the area of the Planning Authority and that is provided, or that is intended will be provided, by or on behalf of the Local Authority.*

3.2. Planning Authority Reports

3.2.1. Planning Reports

The application was subject to requests for Further Information and Clarification of Further Information. Therefore, there are a number of planning and technical reports

on file. They can be summarised as follows with emphasis on the content of the final reports.

First Planning Report:

- Notes zoning of site is Objective A 'To protect and/or improve Residential Amenity' under the South Dublin Development Plan 2010 – 2016 which was in force at the time of the application. Use class 'Service Garage' is open for consideration, however motor sales outlet is not permitted.
- Notes the business has been in existence for over 26 years and considers principle of use acceptable.
- Considers that having regard to the location of the proposal in a residential area that landscaping and boundary treatment issues must be addressed.
- Proposed freestanding sign is not considered appropriate.
- Considers that there is no significant change to parking save for the additional parking behind gates to the north-west of the site.
- Refers to non-compliance with previous landscaping requirements. Considers this needs to be addressed via Further Information as well as its relationship to the Whitechurch stream.
- Notes no Appropriate Assessment Screening Report supplied.

Second Planning Report

Following the applicant's response to the request for Further Information, the Second Planner's Report notes:

- Landscaping Plan submitted – notes Parks Department recommends refusal because it only tacitly contributes to landscaping of the site and does not lessen impact on the surrounding area or enhance the Green Infrastructure Network. Notes that proposals to open up the culverted area to expose the stream have not been submitted.
- Regardless of previous applications on the site, the current applicant should address the requirements of the new County Development Plan 2016 – 2022, in particular those contained in Chapter 8 Green Infrastructure.

- Design proposals should take cognisance of its important ecological location within the county and along the important watercourse of Whitechurch stream.
- Considers AA Screening Report acceptable.
- Considers the Applicant has responded positively to most of the issues with the exception of the landscaping plan. Requests Clarification of Further Information in relation to the landscaping proposals, in particular the width and viability of the proposed planting strip facing Whitechurch road and whether consideration is given to the opening up of the stream to allow it to function as some sort of natural watercourse.

Third Planning Report

Following the applicant's response to the request for Clarification of Further Information, the Third Planner's Report notes:

- Accepts that the Whitechurch stream will not be opened by the owner of the site, but considers that a 4 metre wide landscaping strip should be provided.
- Repeats concerns with landscaping proposals but notes that Parks Department has requested conditions.
- Notes with respect to Development Contributions that permission is sought for 23 (+1) car parking spaces. Development Plan standards require a maximum provision of 40 spaces (1 car parking space per 25sq.m of retail – comparison space). Considers that there will be 49 spaces in total.

The Planner recommends granting permission and the decision was in accordance with the Planner's recommendations.

3.2.2. Other Technical Reports

- **Roads Department** – No objection subject to conditions.
- **Heritage Officer/ Public Lighting/ Urban Designer/ Pollution control** – no response
- **Foul Drainage** – no objection
- **Surface Water** – no objection
- **Waste Management** – No objection subject to conditions.

- **Parks and Landscaping Department** – no response to initial application. Following the response to the request for Further Information, the Parks Department recommended refusal: The Landscape Plan submitted did not adequately address the interface of the site with the adjoining culverted Whitechurch stream. The existing site intrudes negatively on the residential landscape of Whitechurch road which is characterised by large trees and hedgerows. Consideration should have been given to increasing the width of the existing available landscape strip to 4m. Noted that no proposals have been provided to the opening up of the stream to allow it to function in some form of natural watercourse. Following the response to the clarification request, the Parks Department recommended conditions to be attached.

3.3. **Prescribed Bodies**

- **Irish Water** – no response
- **Inland Fisheries Ireland** – Notes Whitechurch stream is a tributary of the Owendoher river which in turn is the most important nursery in the Dodder system. The stream represents a valuable resource. It is IFI policy to maintain watercourses in their natural state to prevent habitat loss - any river or stream works must be submitted to IFI for consultation and approval and IFI would advocate reinstatement to surface flow of culverted channels where possible. No objection subject to conditions.
- **HSE Environmental Health Officer** – no response.

3.4. **Third Party Observations**

Three submissions were received from Glendoher & District Residents Association (the third party appellants), Gordon Anderson and the Dodder Anglers Association.

The Glendoher Residents Association will be dealt with in detail in Section 6 below. Gordon Anderson stated that part of the land included in the planning application is within his and Karl Anderson's ownership and they have not provided consent to the making of the application (this was resolved at Further Information stage).

Dodder Anglers Association queried if the present construction on site including the culverting of the stream was in accordance with the permission. They were of the opinion that the requirements of the IFI were ignored. They requested that any condition of planning would include the opening up of the culvert, natural banks restored and culverting replaced by two bridges. Concern about request to include a vehicle washing facility and possible contamination.

4.0 Planning History

There have been a number of planning applications on this site. Of relevance:

- **SD03A/0239:** Permission granted by SDCC in July 2003 for the partial demolition of existing buildings, extension to retained part of building to form car showroom, offices, parts department and vehicle workshop. Construction of second car showroom, offices and valeting building.
- **SD03A/0955:** Permission granted by SDCC in April 2004 for the partial bridging over of existing river and new hardstanding to provide an enhanced vehicle display area. Works to include new guarding to the retained river access. Condition 3 states *'The developer shall ensure that the development presents a good quality appearance to the surrounding sites and roadways, especially to the Whitechurch Road, through adequate landscaping, screening of open areas and treatments of all site boundaries. In this regard the applicant shall submit landscaping scheme and detail to the Planning Authority for written agreement prior to commencement of any development on site. Reason: In the interest of visual amenity and the proper planning and development of the area.'*
- **Enf. Ref. S6978:** Status live – Non-compliance with Condition 3 of permission SD03A/0955. A submission for compliance was received on 25/02/2008. The Parks department considered the landscape plan to be unacceptable. On 01/02/2011 a letter was sent to the applicants stating the submission was unsatisfactory. No further submissions were received. It is considered that landscape issues remain to be resolved.
- **SD04A/0803:** Permission refused by SDCC in December 2004 for 85 apartments in a mix of 5 storey blocks, 115 car parking spaces and all works.

It was refused permission because it was considered (inter alia) to be excessive in height, scale, mass, mix and density.

5.0 Policy Context

5.1. Development Plan

The site is subject to the provisions of the South Dublin County Council Development Plan 2016 – 2022. This plan was adopted in June 2016 during the consideration of the application.

Chapter 4 refers to Economic Development & Tourism, Chapter 7 to Infrastructure & Environmental Quality, Chapter 8 to Green Infrastructure and Chapter 11 to Implementation.

Chapter 7 refers to car parking – **TM7 Objective 1** *‘To carefully consider the number of parking spaces provided to service the need of new development’*.

Chapter 8 states that the Council will develop and implement a green infrastructure strategy for the county in accordance with international best practice and emerging national guidance. **G2 Objective 11:** *To incorporate appropriate elements of Green Infrastructure e.g. new tree planting, grass verges, planters etc. into existing areas of hard infrastructure wherever possible, thereby integrating these areas of existing urban environment into the overall Green Infrastructure network.*

G3 Objective 4: *To uncover existing culverts and restore the watercourse to acceptable ecological standards and for the passage of fish, where possible.*

Chapter 11 refers to Implementation. The area is zoned ‘RES – To protect and/or improve residential amenity’. Motor sales outlet, Industry light and Service garage are all open for consideration in this zoning (note motor sales are open for consideration in the new Plan).

Table 11.23 provides information on Maximum Parking Rates (non-residential). Retail Comparison requires 1 per 25sq.m and vehicle service station requires 1 per 250sq.m. Section 11.6.1(iii) states: *‘Watercourses should remain open in their natural valley and culverting shall be confined to road crossings. In exceptional circumstances and at the discretion of the Planning Authority, approval may be given*

to install a culvert within a development where it is demonstrated that this is the most appropriate design response based on site specific constraints/circumstances’.

5.2. Development Contribution Scheme

The South Dublin Development Contribution Scheme 2016 – 2020 is applicable.
Section 10 refers to Exemptions and Reductions.

Section 10(ii) states that the first 40sq.m of a non-residential development shall be exempted from the requirement to pay contributions.

Section 10(iv) states that car parking assessed as being necessary to the proposed development, and generally in line with Development Plan standards, whether surface or non-surface, is exempt.

Section 10(vii) states car parking assessed as being in excess of standard requirements to the proposed development, will be charged at a rate of 50% of the non-residential rate on a per space basis.

Section 10(viii) states Vehicle display area spaces (for the purposes of sale) to be charged at 10% of the non-residential rate on a per space basis.

Section 10(ix) states that Open storage/Hard surface non-residential space development (uncovered storage space), including forecourt development, but not car-parking or truck parking – shall be liable for development contribution at 10% of the total non-residential rate. In the interests of clarity these areas relate to the specific area where the goods/vehicles are stored and not to turning areas, internal access routes within site etc.

Section 10 (xx) states Signage / Shop Fronts, Entrance Gates / Railings / Fencing, Elevational Alterations, Internal layout change – Where no additional floor area is created; shall be exempt. Section (xxiv) states Ancillary plant rooms (where plant is not core activity/operation) shall be exempt.

Section 10 (xxviii) Demolition and Rebuild: Where an applicant is granted permission to demolish in part or in full an existing building and replace with another, then the development contribution payable is to be calculated as follows;

- i. where a contribution has been paid – the contribution will be levied on the increased floor area of the new build over the old*

- ii. *if no contribution was previously paid - the contribution will be levied on the new development in full*

The Development Contribution Scheme does not provide for any rebate or refund in this regard. Agents/applicants should provide evidence of prior payment at application stage in order to expedite assessment and avail of this exemption.

5.3. Natural Heritage Designations

The following Natura sites are located within 15km of the subject site:

Wicklow Mountains SAC – Site Code 002122 – 5.61km south

Glenasmole Valley SAC – Site Code 001209 – 6.36km south

South Dublin Bay SAC – Site Code 000210 – 6.29km north-east

South Dublin Bay and River Tolka Estuary SPA – Site Code 004020 – 7.72km north-east

North Dublin Bay SAC – Site Code 000206 – 9.11km north-east

North Bull Island SPA - Site Code 004006 – 10.99km north-east

Rockabill to Dalkey Island SAC – Site Code 003000 – 13.2km east

6.0 The Appeal

6.1. Grounds of Appeal

The application is subject to both a third party appeal and a first party appeal.

6.2. Grounds of Third Party Appeal

A third party appeal has been submitted on behalf of the Glendoher & District Residents Association. In summary, it states:

The proposed development results in intensification of the existing use in a residential area.

- Notes the Planner considers the principle of use to be acceptable having been in this location for 26 years, however, the proposal amounts to an intensification of the use in a residential area.
- Car parking spaces rise from 25 to 49 - no rationale provided in the covering letter explaining why the increased number is required.
- The increase in height of the service area, changes in the design to the showroom area and the introduction of a car wash facility all point to an intensification of the existing use.

Lack of clarity of proposed development.

- The planning authority is unclear about the nature and purpose of the new spaces as is clear from the wording of condition 7.
- It is clear from condition 5 that the planning authority is not satisfied about the boundary treatment and the exact nature of the treatment will be determined by manner of agreement without scope for objections.

Non-Compliance with Landscaping Conditions.

- In view of previous experience of unsatisfactory boundary treatment this matter should have been resolved prior to permission being granted. Considers that Condition 3 of the earlier permission for the same applicant was not agreed and nevertheless the development was commenced and completed. It is reasonable to assume the same situation may arise.

Opening up of stream.

- The Parks Department wanted the culvert to be re-opened and previous culverting measures reversed. The re-opening of the river and removal of the culvert will mitigate against damage to the riverbank.

Conditions.

- Conditions should be precise and enforceable. Condition 3 does not meet these requirements. Condition 7 raises an issue of car parking which makes clear that the exact nature of development was not clear to the planning authority at the time of making the decision.

6.2.1. Applicant Response

- Zoning – site has been in operation as a car sale/repair business since 1989 which precedes the South Dublin Development Plan 2010 – 2016 and was in commercial use since 1960 by Smurfit Packaging.
- Intensification of use assertion is incorrect. There is no additional area provided only the readjustment/redesign of existing areas. The internal floor area of service area no.3 is already available for the parking of cars and shall be now used for the parking of cars externally. The main reason for removal of service area 3 is the poor condition of it and photos are included to illustrate this point.
- States that planning permission is not required for the demolition of commercial building. This proposal will allow the business to have more flexibility and enable applicant to move more expensive stock to the secure area behind the proposed gates when the business is closed.
- There is no lack of clarity - the business is a car sales and servicing business and the business will operate as the same. The works are to try and improve the appearance of the business to the public realm.
- The failure to comply with Condition no.3 was by a previous owner of the site. Rathfarnham Ford only bought the site in 2011 as part of a receiver sale and was not made aware of any outstanding issues. The Landscape proposal submitted is a fair proposal and will improve the site.
- The opening of the stream is not an option. The Council granted permission to the previous owners to culvert the stream. The application before the Board does not include any proposed works to the stream so this element of the appeal is mute – there are no works proposed or conditions requiring works to the culverted stream so how can this be appealed.
- Condition 3 is clear – however as there are no works planned for the stream and there is existing parking on the site the point is mute and should be removed. IFI were consulted and they state that they have no objections subject to conditions.

- Condition 7 – there are only 6 customer parking spaces, however, parking on the site is not an issue. There is no addition to the area so there is no need for additional parking. Parking for a car sales business has to be flexible as cars are moved about throughout the day and at night cars will be moved to the secure area. The proposal before the Board means no extra cars over what already exists.

6.3. First Party appeal against Conditions

The applicant appealed against 6 conditions.

Condition 2 relates to providing a 4m wide planting strip along the east boundary of the site.

- No account has been taken of the impact on the current parking arrangements within the forecourt area. A 4m strip is extremely onerous and will result in the loss of 16 spaces which is considered draconian.
- The proposal essentially seeks to provide a new entrance lobby, car wash and to improve the visual amenities of the area in the form of demolition works involved to facilitate same. To omit 16 car parks spaces is wholly unreasonable and unjustified. Implementing the permission would simply not make sense for the applicant.
- Applicant has no objection to the provision of a planting scheme and accepts that this will improve the visual amenity of the general area. There has to be a practical sense of balance applied.
- Submit that condition no.2 should be re-worded to read that the landscape masterplan as submitted should be implemented in full within the first planting season following the demolition and construction works.

Condition 3 requires consultation with Inland Fisheries Ireland.

- This will no longer be required if the Landscape Plan submitted is accepted.

Condition 4 relates to agreeing specific landscaping with the Parks department.

- This condition should be removed in its entirety as Condition 2 deals with landscaping. The fence is required for security and its lightweight appearance and green colour will blend in with the landscaping.

Condition 6 refers to the free standing sign.

- Planner's Report does not refer to sign and then it is omitted – applicant left in the dark as to why.
- Sign is needed to inform motorists of the location and times of opening – there is currently no sign at the front of the site.
- Applicant willing to reduce height to 5.5m x 1.5m as per the Roads Department recommendation.
- Applicant open to a condition removing the flagpoles.

Condition 7 requires the applicant to submit a parking layout.

- Applicant has to relocate some display cars in the evening back into the car park spaces reserved for cars waiting service and for security reasons.
- Request that condition is reworded to recognise the flexibility required: "Display cars may be moved back into the service/customer car park spaces after opening hours for the purposes of security".

Condition 12 refers to financial contribution.

- The Council are seeking an enormous contribution of €78,766.50 for the provision of a new lobby entrance and car wash, which makes no sense.
- Planner's Report sheds no light on where this figure comes from. It notes the total new floor area as being 22.95sq.m under 'Commercial' in the table relating to Development Contributions which clearly suggests this should be the only floor area subject to a levy. Reference is also made to the overprovision of 9 car park spaces.
- Upon examination Section 10(ii) for car parking, notes that the first 40sq.m is exempt. Section 10(vi) states that necessary car parking in line with Development Plan standards is exempt.

- The planner's report relies on retail comparison land use to derive the car parking requirement. It is submitted that a motor sales outlet has a very unique car parking arrangement and is completely different to retail outlet.
- There is no net increase in the car parking required, therefore there should be no associated car park levy.
- Section xxviii notes that where an applicant is granted permission to demolish a building and replace with another, then the development contribution will be levied on the increased floor area of the new build over the old. If no contribution was previously paid the contribution will be levied on the new development in full.
- The owner of the site has changed since the previous permission and no evidence can be found to demonstrate payment. Assuming the levy has not been paid the levy on the new development amounts to 22.95sq.m x €75 = €1,721.25. However, as the first 40sq.m is exempt, it is submitted that no levy is payable.

6.3.1. Planning Authority Response

The Planning Authority submitted two responses – one dealing with the first party appeal of conditions 2, 3 4 and 6 and another dealing with the Development Contribution.

The Authority responded to the appeal stating that:

Given the planning history, the non-compliance with previous landscaping requirements, the prominence of the site, and its residential surroundings and the importance of Whitechurch stream aquiver (sic) within the county, matters concerning landscaping needs to be addressed by the applicant and therefore the following conditions (or similar conditions of similar sentiment) should be attached, if permission is granted.

Conditions 2, 3, 4 and 6 are restated.

With respect to the Development Contributions it is stated that:

The Council's total assessment for SD16A/0007 is €78,766.50. This assessment comprises of a commercial area of 998.72sq.ms (this includes

575sq.ms of existing building to be demolished) and 103sq.ms of non-ancillary car-parking. The current commercial rate is €75 per sq.m and the rate for non-ancillary parking is €37.50 per sq.m (50% of the commercial rate). The assessment is as follows:

998.72 x €75 = €74,904, 103 x €37.50 = €3,862.50 giving a total of €78,766.50

6.4. Further Responses

The third party were provided an opportunity to respond to the first party appeal against conditions.

- The appeal against conditions 2,3,4 and 6 should be rejected on the basis that in the event that planning permission is granted, these conditions are necessary in the interest of visual amenity. The 4m strip is essential to the planning permission and an explicit requirement from the Parks Department.
- The appeal against conditions 7 and 12 demonstrates the fact that the applicant has failed to provide sufficient clarity about the increase in the number of car parking spaces that would result from the proposed development and the intensification of use would seriously injure residential amenities.

7.0 Assessment

I will deal with both appeals, the third party and the first party, separately.

7.1. Third Party

The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development
- Residential and Visual amenities
- Landscaping and Whitechurch stream culvert

- Car parking and layout
- Development Contributions
- Appropriate Assessment

7.2. Principle of Development

The application was submitted while the Development Plan 2010 – 2016 was still in force. That Plan considered a Service Garage open for consideration within the residential zoned area but not a motor sales outlet. However, during the course of the application a new Plan was adopted and the South Dublin County Council Plan 2016 – 2022, considers both open for consideration. Notwithstanding the land use zoning matrix, it is noted that this site is well-established for non-residential uses. The applicant states that a car service/show room facility has been on the site since 1989 and it was in use by Smurfit Packaging since 1960. In conclusion, I am satisfied that the principle of development on this site is acceptable.

7.3. Residential and Visual Amenities

I will address the landscaping proposal in Section 7.4 below.

Concern is expressed about the potential impact on residential and visual amenities the proposed development could have. The application proposes to improve the visual appearance of the overall facility and to provide a more orderly development. I consider that the proposals to improve the cladding and the glazing on the façade and to clarify the parking layout to be an improvement on the layout currently. The proposals will present a more modern appearance and create a more pleasant environment for customers and employees alike and give legibility to the overall development.

I agree with the Planning Authority in respect of omitting the external free standing sign. There is no sign there at the moment and I am of the opinion that a sign in this location would jar with the general residential nature of the area.

Concern is expressed with the potential impact of the vehicle washing area. I note that there are very mature trees along the northern boundary which should mitigate against any impact on the nearest dwelling.

In conclusion, I am satisfied that the proposal will not significantly impact on visual and residential amenities and will in fact improve the visual appearance of the facility. I would recommend a condition that the free standing sign is omitted.

7.4. Landscaping and Whitechurch stream culvert

The current landscaping is very limited with only a strip of grass between the site and the road. Landscape improvements would enhance the development itself as well as the general area. The landscaping plan as submitted is deemed unsatisfactory by the Planning Authority. The Planning Authority consider that landscaping should be addressed by way of including a condition to plant a 4m wide strip to the front of the site. The applicant considers that this would result in the loss of 16 car parking spaces and is draconian.

Due to the location of the opening of the stream in the middle of the tarmacked area, the vehicular movement around the site is limited. I consider that requesting the applicant to provide a 4m strip for landscaping to be unreasonable. It will impact on the number of car parking spaces which are available for showing cars as well as customer parking.

The landscaping plan provided by the applicant at Clarification of Further Information stage will provide additional trees and hedgerows, and break up the line of cars that is currently visible from the road. I am of the opinion that this will assist in the improvement of the visual amenities of the area. I consider a condition requiring that the landscaping be carried out in full within the first planting season following the completion of the façade works should ensure that the visual amenities of the area are improved in a suitable timeframe. I agree with the Planning Authority that the concrete plinth supporting the fence should be removed and the replacement fence should be supported by posts only.

With respect to the opening up of the Whitechurch stream culvert, I note that the culverting of the stream was granted permission in 2004 and the works carried out by a previous owner. The new Development Plan does include a policy to open up previously culverted areas where possible (*To uncover existing culverts and restore the watercourse to acceptable ecological standards and for the passage of fish, where possible*), and the Parks Department requested that the applicant consider this and submit proposals. The applicant responded stating that the application was,

in essence, for the development of a new entrance lobby and façade improvements and it would simply not be possible to carry out this work both from a financial and business point of view. The third party reiterated that the re-opening of the culvert should be carried out as part of their appeal. However, I am of the opinion that these works have not been proposed by the applicant and therefore have not been properly assessed by the appropriate authorities or prescribed bodies. This stream leads to the Dodder and it would not be appropriate to simply request the applicant as a condition of this permission to carry out these works without a thorough assessment.

In conclusion, I consider the landscape plan submitted at Clarification of Further Information stage to be reasonable and I would recommend that a condition requiring the landscaping to be carried out in the first planting season should be included. A thorough assessment of the work required to remove the culvert would be required, and this has not been carried out because the applicant has not requested that these works form part of the planning permission. It would be inappropriate to leave these works to be carried out under a condition.

7.5. Car parking and layout

Car parking is raised as a concern by the third party. The applicant states that there are no new car parking spaces being proposed but the third party is concerned that new spaces indicate intensification of development.

The nature of the development is different to a normal 'retail-comparison' type store. The product on sale is cars and they need to be parked somewhere for display. The applicant states that the cars are moved around during the day and night for security reasons and there is no intensification of development proposed. The spaces already exist internally and following demolition will be external to the area.

I accept that the applicant requires flexibility and note that the applicant states that there are only 6 spaces for customers. A parking layout is illustrated on the landscaping plan and Drawing RF/15/02 and I consider that all car parking spaces should be clearly marked to provide legibility in the site. This can be dealt with by way of condition.

7.6. Development Contributions

A Development Contribution of €78,766.50 has been applied by the Council. The Council, in response to the appeal against the contribution, outlined their reasoning for the contribution. They have based it on Demolition and Rebuild, Section 10 (xxviii), and consider a commercial area of 998.72sq.m including the 575sq.m to be demolished, as well as 103sq.m ancillary parking area - $998.72 \times €75 = €74,904$, $103 \times €37.50 = €3,862.50$ giving a total of €78,766.50.

However, the Development Contribution Scheme is very clear that the contribution is only to be applied to the area that is to be rebuilt following the demolition. Section 10 (xxviii) states that where an applicant is granted permission to demolish in part or in full an existing building and replace with another, then the development contribution payable is to be calculated (depending on whether contributions were previously paid) on the new build area only (see Section 5.2 of this Report above).

The applicant states that they can find no evidence that contributions were ever paid, hence the contribution would amount to the area of the new lobby entrance of $22.95\text{sq.m} \times €75 = €1,721.25$. However, section 10(ii) notes that the first 40sq.m are exempt.

With respect to car parking and contributions, the scheme provides for the type of development proposed. However, there are no new car parking spaces proposed as illustrated on the drawings submitted and therefore no levies should apply.

In conclusion, Condition no.12 should be removed as no levies are applicable in this instance.

7.7. Appropriate Assessment

Having regard to the nature and scale of the proposed development, the physical separation distance from Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

I recommend that planning permission should be granted, subject to conditions, for the reasons and considerations as set out below.

9.0 Reasons and Considerations

Having regard to the location and existing use of the site, the pattern of development and the character of the area, the nature and modest scale of the development proposed, the zoning of the area whereby service garage and motor sales outlets are open for consideration, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the character and amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 23rd day of June 2016 and 2nd September 2016, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The landscaping scheme shown on the Landscape Plan drawing, as submitted to the planning authority on the 2nd day of September, 2016 shall be carried out within the first planting season following completion of external construction works.

The existing concrete plinth under the fence is to be removed and the fence shall be supported by posts only.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity

3. The proposed 6 metre high freestanding signage located along the eastern boundary shall be omitted.

Reason: In the interests of visual and residential amenity.

4. Parking for the development shall be provided as indicated on Drawing RF/15/02 and the Landscape Plan and spaces shall be clearly marked out accordingly.

Reason: To ensure a satisfactory parking layout in the interest of pedestrian and traffic safety and of visual amenity.

5. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

6. The proposed signage attached to the building structure shall not be internally illuminated.

Reason: In the interest of residential amenity and the proper planning and development of the area.

7. . Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

8. All necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay rubble or other debris on adjoining roads during the course of the works.

Reason: In the interest of residential amenity.

9. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.

Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

.Ciara Kellett
Senior Planning Inspector

01/03/17